



THE ESTATE PLANNER'S TOOLKIT

By: Frederick L. Stoker III, Esq.

THE WILL



A will is a legal document used by individuals to posthumously dispose of property. The law around wills is state specific and there are certain requirements for executing a will which must be met to ensure authenticity. A will can either be “simple” or “complex” which is determined by the size of the decedent’s **estate**, or

the amount of assets owned by them at the time of their death.

A recent survey by the AARP revealed that approximately **60%** of Americans don’t have a valid will.¹ In 2018, the Center for Disease Control (“CDC”) reported 2,839,205 deaths among the U.S. population, which translates to about **1.7 million** people dying without a proper estate plan.²

POWER OF ATTORNEY

A power of attorney is an instrument by which one party, the “**Principal**”, appoints another party, the “**Agent**”, to act on the Principal’s behalf. The Agent is authorized to make financial and legal decisions, legally binding the Principal. The laws relating to the Power of Attorney are also state specific and may allow for broad or narrow authority. One variation is the **Durable Power of Attorney** which allows action by the Agent even where the Principal becomes *incapacitated* whereas the authority would have terminated otherwise.

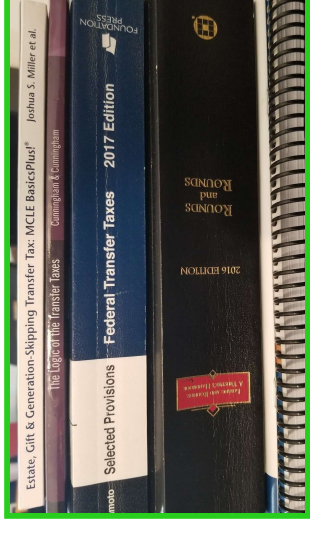
HEALTH CARE PROXY

The health care proxy is used to identify someone trusted with making decisions relating to your medical treatment, should you be unable to make these decisions yourself. The most serious concern for the holder of a health care proxy is whether or not the individual would want to be placed on life support.

¹<https://www.aarp.org/money/investing/info-2017/half-of-adults-do-not-have-wills.html>

²<https://www.cdc.gov/nchs/data/databriefs/db355-h.pdf>

THE TRUST



A trust is a fiduciary relationship with respect to property in which a Principal *transfers legal title* to an Agent, who then administers the property for the benefit of the equitable interest holders. The well-drafted trust enables a Principal (the “**Settlor**”) to govern the manner in which **Beneficiaries** may use the property throughout their lives and whether such property may be assigned to other parties.

Trusts may be created during a Settlor’s life (“**Inter-vivos**”) or upon death through a will (“**Testamentary**”). Careful drafting of the instrument and funding procedures can help minimize tax consequences of inter-vivos and testamentary transfers of assets. The laws around trusts are state-specific and therefore a person considering the trust as an estate planning tool should consult with an attorney licensed in their jurisdiction.

The time to get an estate plan drafted if you do not already have one is always going to be RIGHT NOW. Stoker Law Firm offers “wicked” competitive rates and is always client-focused.